

IN THE UNITED STATES OF DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

LESLIE BARBER, ET AL.,  
ON BEHALF OF HERSELF AND  
ALL OTHERS SIMILARLY SITUATED

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 3:06CV466 WHB-JCS

PECO FOODS, INC.

DEFENDANT

**PLAINTIFFS' NOTICE OF DISMISSAL WITHOUT PREJUDICE**

COME NOW the Plaintiffs, Leslie Barber, et al., on behalf of themselves and all others similarly situated, by and through counsel of record, and file this, their Notice of Dismissal Without Prejudice, and in support thereof state unto the Court the following, to-wit:

1. On August 21, 2006 the Plaintiffs filed their Complaint in this matter.
2. Plaintiffs have yet to serve process upon Defendant Peco Foods, Inc. and Defendant Peco Foods, Inc. has yet to serve an answer or a summary judgment motion upon Plaintiffs.
3. F.R.Civ.P. 41(1)(a)(i) allows plaintiffs, without order of the Court, to dismiss their action without prejudice by filing a notice of dismissal prior to a defendant filing an answer or summary judgment motion. F.R.Civ.P. 41(1)(a)(i) (2006).

WHEREFORE, PREMISES CONSIDERED, Plaintiffs file in this matter their Notice of Dismissal Without Prejudice, pursuant to F.R.Civ.41(1)(a)(i), and dismiss this matter without prejudice forthwith, and respectfully request that such be noted on the docket of the Court without delay.

RESPECTFULLY SUBMITTED,

s/ Seth M. Hunter  
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